

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee
the Resource Adequacy Program, Consider
Program Refinements, and Establish Annual
Local Procurement Obligations.

Rulemaking 11-10-023
(Filed October 20, 2011)

**DECISION GRANTING INTERVENOR COMPENSATION TO SIERRA CLUB
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-06-050**

Intervenor: Sierra Club	For contribution to Decision (D.) 14-06-050
Claimed: \$ 11,326.50	Awarded: \$10,201.00 (9.94% reduction)
Assigned Commissioner: Michel Peter Florio	Assigned Administrative Law Judge (ALJ): David M. Gamson

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	<p>In D.13-06-024, the Commission adopted a flexible capacity procurement framework but left specific details, including characteristics for participation by energy storage and demand response to the subsequent phase of the proceeding. This decision, D.14-06-050 established a methodology for determining flexible capacity procurement requirements and for determining the flexible RA value for demand response and energy storage. Concurrent with this proceeding was the CAISO's Flexible Resource Adequacy Criteria Must Offer Obligation (FRACMOO) initiative. The terms of the FRACMOO and its interplay and consistency with RA requirements interacted significantly with this proceeding.</p>
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	n/a	Agreed.
2. Other specified date for Notice of Intent (NOI):	Nov. 28, 2011	Yes.
3. Date NOI filed:	Sierra Club concurrently filed and served a Motion to Late File an NOI and the NOI on December 19, 2012. However, after Sierra Club discovered that only the Motion was docketed, not the NOI, pursuant to direction by the Docketing office, Sierra Club re-filed and served the NOI on August 20, 2013.	Agreed, although Sierra Club's NOI was not filed until August 21, 2013.
4. Was the NOI timely filed? No, but motion to late-file granted by Administrative Law Judge (ALJ) Gamson on May 21, 2013.		Agreed.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.).14-02-001	Yes.
6. Date of ALJ ruling:	July 25, 2014	Yes.
7. Based on another California Public Utilities Commission's (Commission) determination (specify):		

8. Has the Intervenor demonstrated customer or customer-related status?		Yes, Sierra Club has demonstrated its status as a customer.
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.14-02-001	Yes.
10. Date of ALJ ruling:	July 25, 2014	Yes.
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes, Sierra Club has demonstrated significant financial hardship.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-06-050	Yes.
14. Date of issuance of Final Order or Decision:	July, 1, 2014.	Yes.
15. File date of compensation request:	August 21, 2014.	Yes.
16. Was the request for compensation timely?		Yes, the request for compensation was timely filed.

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
4	The e-mail granting the motion was provided in the Club's Intervenor Comp Request for	

	<p>Phase II of this proceeding and the resulting D.13-06-024. Sierra Club is still awaiting a determination on that compensation request. The Scoping Memo for Phase III did not require filing of a new NOI. Sierra Club is therefore referring to its originally filed NOI for compensation in this phase. Total compensation for Phases II and III does not exceed the original NOI estimate.</p>	
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PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision
(see § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1. Full valuation of preferred resources in both reducing flexible capacity needs and providing flexible capacity</p> <p>In Phase II, Sierra Club focused on ensuring flexible capacity procurement was not implemented until preferred resources and energy storage could participate. In this phase, the focus shifted on ensuring maximum</p>	<p>Sierra Club and Vote Solar Opening Comments on Staff Proposals at 2-3 (Feb. 18, 2014)</p> <p>Sierra Club Reply Comments on Staff Proposal on Implementation of the Flexible Capacity Procurement Framework (Mar. 6, 2014)</p> <p>Sierra Club and Natural Resources Defense Council Opening Comments on April 9, 2014 Workshop Proposals (April 18, 2014)</p> <p>Reply Comments of the Natural Resources Defense Council and</p>	<p>Agreed.</p>

<p>valuation of preferred resources and energy storage in order to reduce the GHG-intensity of flexible capacity procurement and limit fossil-fuel centric biases that function to needlessly subsidize GHG-intensive generation. To that end, Sierra Club strongly and repeatedly argued that energy storage charging should be counted toward flexible capacity RA. While this was always the Commission's position, CAISO initially took a different position in FRACMOO and in this proceeding, creating an untenable rift in the respective EFC methodologies of the PUC/CAISO. Sierra Club supported Commission staff on this issue and repeatedly fought the CAISO proposal in the CAISO's FRACMOO initiative (SC is not seeking intervenor comp for this work, where the majority of the time on this issue occurred). CAISO ultimately yielded and included charging in its last iteration of FRACMOO and the</p>	<p>Sierra Club on the CAISO's Flexibility Capacity Requirements Study (May 15, 2014).</p> <p>Decision at 30-32 ("Sierra Club and NRDC advocate that a 45-minute transition time for bi-directional Flexible RA resources should be allowed; the CAISO, SCE, MegaWatt, and the Joint LDES Parties disagree. Additionally, the CAISO and NRG state that a non-generating resource tariff is necessary, while the Sierra Club and NRDC find it too restrictive and recommend against its adoption. Sierra Club and NRDC also argue that negative-only demand response resources should not qualify for RA until potential energy waste has been considered... For bi-directional resources, we share the CAISO's concern that a 45-minute transition time may have unforeseen grid reliability impacts, and we do not adopt the staff proposal to allow a 45-minute transition time for resources switching from negative to positive generation. <i>However, because there is a clear potential for resources with a non-zero transition time to contribute in a reliable and quantifiable manner towards meeting ramping needs, we encourage Energy Division, the CAISO and other parties to further explore this concept so that it can be reconsidered for the</i></p>	
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<p>Commission retained its counting of charging in its EFC methodology.</p> <p>Sierra Club also expressed concerns that requiring storage to meet CAISO requirements for a non-generating resource (NGR) needlessly limited the charging functionality of pumped hydro is meeting flexible capacity needs and participation by other storage technologies.</p> <p>Sierra Club also argued for counting for energy efficiency improvements in estimating future flexible capacity needs and expressed concern for an aspect of Staff's demand response proposal that appeared to incentivize energy consumption with no commensurate reduction at a later time.</p>	<p><i>2016 RA compliance year.... The CAISO's proposal that all bi-directional resources must register as non-generator resources is another significant difference between the proposals. We share some parties' concern that this tariff may be unduly restrictive, and we are concerned that it does not allow for bi-directional demand response resources. Therefore, we do not adopt a non-generator resource requirement at this time.</i></p> <p>Decision at 19 ("Sierra Club and NRDC urge the CAISO to include Additional Achievable Energy Efficiency assumptions in its Flexible Capacity Needs Assessment..... <i>We encourage the CAISO to consider recommendations made by Sierra Club, NRDC and PG&E before finalizing its 2015 flexibility needs assessment for 2016.</i>")</p>	
<p>2. ELCC</p> <p>This proceeding had also scoped in determining the effective load carrying capacity (ELCC) of wind and solar to replace current capacity values for an RA determination. Sierra Club expressed initial concerns at the</p>	<p>Sierra Club and Vote Solar Opening Comments on Staff Proposals at 1-2 (Feb. 18, 2014)</p> <p>Decision at 65-66 ("Many issues remain to be resolved regarding an ELCC model and ELCC-based QC values for wind and solar resources....The ELCC model is not yet complete and model</p>	<p>Agreed.</p>

potential methodology as inconsistent with achievement of state GHG goals and failing to account for solutions such as TOU and electric vehicle pricing that would create additional value from carbon free solar production. However, because no ELCC methodology was ultimately proposed and the issue was deferred, this issue was not resolved in the instant Decision.	results have not yet been published.”)	
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor’s Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	Yes.	Yes.
b. Were there other parties to the proceeding with positions similar to yours?	No.	Yes.
c. If so, provide name of other parties:		Natural Resources Defense Council, Vote Solar.
d. Intervenor’s claim of non-duplication: As evidenced by our		Agreed.

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

<p>filings in this docket, Sierra Club was diligent about jointly filing and with other environmental stakeholders to avoid duplication. This resulted in fewer hours claimed and a more robust work product. Sierra Club did outreach to other parties with similar concerns, including CESA and PG&E. However, to the extent there was some overlap between Sierra Club's views on sub-issues and other non-environmental parties, the perspective and framing by Sierra Club (and joint environmental filers) was a unique addition and non-duplicative of other stakeholders.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

<p>a. Intervenor's claim of cost reasonableness: Sierra Club's participation help ensure investments the state is already making in energy storage and energy efficiency are fully accounted for (or set the stage for improved accounting in the next RA cycle) to reduce additional expenditures that would otherwise be needed to procure flexible capacity from fossil fuel resources. Since flexibility capacity will likely be more costly than generic capacity, reducing need and better leveraging investments in preferred resources and energy storage provides ratepayer benefit. Reduced reliance on fossil fuels to meet flexible capacity needs also functions to reduce greenhouse gas and air pollution and the costs of that pollution on the environment, economy and health of Californians. Sierra Club's total comp request is approximately \$9,000. Improvements in flex capacity qualifications and valuation of preferred resources and storage vastly outweigh this cost.</p>	<p style="text-align: center;">CPUC Discussion</p> <hr/> <p>Verified.</p>
<p>b. Reasonableness of hours claimed: Sierra Club is claiming only approximately 30 hours of work in this proceeding. Sierra Club was very targeted and efficient in addressing specific issues where it saw the need to improve or support EFC and flexible capacity assessment methodologies. Indeed, Sierra Club spent significantly more time on these issues in the concurrent FRACMOO proceeding where devaluation of energy storage, and its implications for the PUC's EFC</p>	<p>Verified, but see CPUC Disallowances and Adjustments in Part III.D.</p> <hr/> <hr/>

determination where of greater concern. Because the proceedings were so intertwined, the Club's advocacy at CAISO, which is not compensated, contributed to the efficiency and effectiveness of the Club's work in this docket. Collaboration with environmental partners also resulted in significant efficiencies.	
c. Allocation of hours by issue: A) EFC Determination: Maximizing preferred resource/energy storage values 53% B) ELCC 23% C) General 24%	<u>Verified.</u>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Matthew Vespa	2013	6.2	\$330	Resolution ALJ-287	\$2,046	6.2	320.00 [1]	1,984.00
Matthe Vespa	2014	24.9	\$345	Resolution ALJ-287	\$8,590.5	24.9	330.00 [2]	\$8,217.00
Subtotal: \$ \$10,636.50						Subtotal: \$ 10,201.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Matthew Vespa	2014	4.0	\$172.5	½ of attorney rate	690	0 [3]	165.00	00.00
Subtotal: \$ 690						Subtotal: \$ 00.00		
TOTAL REQUEST: \$ 11,326.50						TOTAL AWARD: \$10,201.00		

****We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.**

****Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.**

ATTORNEY INFORMATION

Attorney	Date Admitted to CA BAR²	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Matthew D. Vespa	December 6, 2002	222265	No

C. Attachments Documenting Specific Claim and Comments on Part III

Sierra Club's Comments	Comment
1	Mr. Vespa has not yet received an intervenor compensation rate and is seeking compensation pursuant to the range set forth in Resolution ALJ-287 that is commensurate with Mr. Vespa's experience practicing law. Mr. Vespa is a 2002 graduate of the UC Berkeley, Boalt Hall School of Law and a practicing environmental lawyer for the past 12 years. Mr. Vespa has practiced before the PUC for the past three years and brings his knowledge and experience in environmental and climate law and policy to filings before the Commission.

² This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

D. CPUC Disallowances and Adjustments:

Item	Reason
[1]	In other Sierra Club compensation claims, Vespa requested a 2012 hourly rate of \$315 dollars. As described in Resolution ALJ-287, the Commission applies a 2% cost-of-living adjustment to 2013 rates. After rounding, Vespa's 2013 rate is set at \$320.
[2]	In Resolution ALJ-303, the Commission approved a 2.58% cost-of-living adjustment for 2014 rates. After rounding, Vespa's 2014 rate is set at \$330.
[3]	Sierra Club did not submit timesheets documenting the hours spent preparing intervenor compensation materials. As such, the Commission cannot compensate for the work.

PART IV: OPPOSITIONS AND COMMENTS

Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (*see* § 1804(c))

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes.

FINDINGS OF FACT

1. Sierra Club has made a substantial contribution to D.14-06-050.
2. The requested hourly rates for Sierra Club's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$10,201.00.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Sierra Club is awarded \$10,201.00.

2. Within 30 days of the effective date of this decision Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company shall pay Sierra Club their respective shares of the award, based on their California-jurisdictional electric revenues for the 2014 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 4, 2014, the 75th day after the filing of Intervenor's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1406050		
Proceeding(s):	R1110023		
Author:	ALJ Gamson		
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Sierra Club	August 21, 2014	\$11,326.50	\$10,201.00	N/ A	See Part III.D.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Matthew	Vespa	Attorney	Sierra Club	\$330.00	2013	\$320.00
Matthew	Vespa	Attorney	Sierra Club	\$345.00	2014	\$330.00

(END OF APPENDIX)